

REMARKS

I. Status of Claims

Claims 1-6, 13-25, 28, 31-38 and 42-45 remain pending in this application. Claims 24, 25, 28, 31-38 and 42-45 are under examination, and claims 1-6 and 13-23 are withdrawn as being drawn to a non-elected invention.

Claims 31 and 35 are amended herein. Support for the claim amendments can be found throughout the application as filed, e.g., at page 7. No new matter is added.

Applicants thank the Examiner for acknowledging the patentability of claims 24, 25, 28, and 32-34.

II. Information Disclosure Statement

An Information Disclosure Statement is being filed with this Response. The Examiner is requested to consider the cited references and return an initialed Form PTO/SB/08 with the next official communication.

III. Rejection Under 35 U.S.C. § 112, Second Paragraph

Claims 31, 35-38, and 42-44 are rejected under 35 U.S.C. § 112, second paragraph, as allegedly being indefinite for reciting the term “derived.” *See*, Office Action at pages 3-4.

Applicants have amended claims 31 and 35 to delete the term “derived.” In view of the present amendments to these claims, Applicants respectfully submit that the grounds for this rejection have been overcome.

IV. Non-Statutory Obviousness Type Double Patenting Rejection

Claims 44 and 45 are provisionally rejected under the judicially created doctrine of non-statutory obviousness-type double patenting for allegedly being unpatentable over claims 5 and 7 of copending U.S. Appl. No. 11/547,747 (Attorney Docket No. 14875-0171US1). *See*, Office Action at pages 5-6.

Applicants note that copending U.S. Appl. No. 11/547,747 was filed later than the present application, and presently remains under rejection.

According to MPEP § 804, if a provisional nonstatutory obviousness-type double patenting (ODP) rejection is the only rejection remaining in the earlier filed of the two pending applications, while the later-filed application is rejectable on other grounds, the examiner should withdraw the ODP rejection in the earlier-filed application and permit the earlier-filed application to issue as a patent without a terminal disclaimer. Applicants request that the ODP rejection be withdrawn and the claims allowed.

CONCLUSION

Withdrawal of the outstanding rejections and allowance of the claims are respectfully requested. If any issues remain, the Examiner is asked to telephone the undersigned so that they can be expeditiously resolved.

The fee in the amount of \$1,110.00 for a Petition for Three Month Extension of Time and the IDS filing fee of \$180.00 are being paid concurrently herewith on the Electronic Filing System (EFS) by way of Deposit Account authorization. Apply any other charges or credits to Deposit Account No. 06-1050, referencing Attorney Docket No. 14875-0141US1.

Respectfully submitted,

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